

ZONING BOARD OF REVIEW

Barrington, Rhode Island

April 21, 2016

APPLICATIONS #3839, #3840 and #3841

MINUTES OF THE MEETING:

At the call of the meeting by the Chairman, Thomas Kraig, the Board met with Mark Freel, Peter Dennehy, Paul Blasbalg, David Rizzolo, Elizabeth Henderson and Ladd Meyer.

Also present were Solicitor Andy Teitz, Building Official Bob Speaker and secretary Mary Ann Rosenlof.

At 7:02 P.M., Mr. Kraig called the meeting to order.

MINUTES OF THE PREVIOUS MEETING:

MOTION: Mr. Rizzolo made a motion to approve the March 17, 2016 minutes as written. Mr. Freel seconded the motion and it carried unanimously (5-0).

Application #3839, Robert Manchester, 2 Harbour Rd., Barrington, RI, applicant, and Shirley & Robert Manchester, owners, for permission to construct an 8'x12' storage building. Assessor's Plat 25, Lot 125, R-25 District, 2 Harbour Rd., Barrington, RI, requiring dimensional relief for side yard setback.

Mr. Rizzolo recused himself from this application.

Present: Robert Manchester, applicant

Mr. Manchester explained that they propose to construct an 8'x12' shed 5' from the property line (as opposed to the required 8') and about 2' from the brick walkway leading to the front door of the home. Moving the shed farther to the east, where there could be more distance from the property line, would interfere with a number of trees and mature plantings and impair the neighbor's view. The location next to the brick walk is logical since it is close to the house, the garage and the vegetable garden, and provides access to both the front and back yards; it is also lower than the neighbor's property and thus less visible to them. The property is a long and narrow lot with most of the frontage along Mathewson Road and a lesser amount along Harbour Road – the entrance to the house is from Harbour Road, away from the water side.

Mr. Manchester said that the shed would be more than 200' from the coastal feature. The neighbors closest to the location of the proposed shed have no objection to this application.

MOTION: Mr. Freel made a motion to approve this application. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the shape of the lot and the location of the house suggest this is a logical location for the shed; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there are no grounds to assume that either one of these is applicable; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because a shed is normal in a neighborhood like this and the shed will barely be visible from the street; D) that the relief to be granted is the least relief necessary because the shed is modest in size and there are substantial impediments to any other location for a shed. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because the Board understands the desire for someone to have storage space for garden tools and other outdoor implements and this seems the best place for the shed, in proximity to the walkway.

Application #3840, Monique Gelsomino, 15 Hampden St., Barrington, RI, applicant and owner, for permission to construct a 16'x24' deck. Assessor's Plat 27, Lot 4, R-25 District, 15 Hampden St., Barrington, RI, requiring dimensional relief for construction within 100' setback from wetlands/water bodies.

Present: Mr. & Mrs. Gelsomino
Peter Skwirz, Esq., 450 Veterans Memorial Parkway, East Providence, RI

In the audience: Doug Materne, Conservation Commission

Mr. Skwirz explained that the applicants wish to build a 24' x 16" deck in the back of their house and need relief from the 100' setback from wetlands, streams and water bodies under 185-22 of the zoning ordinance – the property is not in the wetlands/overlay district; the rear of the house is already within the 100' setback.

The rear of the house was selected for the deck, rather than the north side, because that is where the view is, there is access through sliders already there, and the flow of the house suggests a deck in that location. The 24' width is based on the size of the existing sliders and adjacent windows, with an added three feet on each side as a buffer; the 16' dimension is to create enough room for a table, chairs, and other seating, and to be in scale. The size of the deck would be in proportion to the dimensions of the house. There would be a permeable surface beneath the deck (as opposed to a hard surface terrace). The Conservation Commission has approved the proposal with conditions, with which the applicants will comply.

Mr. Materne explained that the comment under Section II of the Conservation Commission's report regarding an "adjoining structure" that is closer to the coastal feature than the proposed deck was a reference to a jog in the neighbor's yard that reduced the distance from the water body to the house. The distance of the proposed deck from the water body would be essentially the same as that for adjacent homes.

Mr. Skwirz noted that per 185-69 and 185-71; the hardship is the proximity of the land to the Palmer River and the applicant is taking the land as is and not trying primarily to realize financial gain, the construction of a deck is for their own use, this proposal is in character with the surrounding area, and as indicated by the testimony, the relief is the least relief, and that absent granting relief would amount to more than a mere inconvenience due to the desirability of a deck on that side of the house and the flow of the home between the living room and the proposed deck.

MOTION: Mr. Rizzolo moved to approve the application subject to the following conditions set forth in the Conservation Commission's report.

1. Deck to be constructed on footings, with a slatted base, and with no impermeable underlying material
2. Appropriate erosion control features (e.g., silt fence/hay bales) must surround all areas where soil disturbance will occur prior to and during all soil disturbance (minimal soil disturbance is expected from use of footing)
3. No storage of excavated soil on the property; must be removed
4. All construction materials and equipment must be stored street side and away from water features

Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards of § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the existing house is located within the 100' setback of the coastal feature and any deck on the water side of the house would require a variance; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because the house is pre-existing and there is no evidence that the proposal is primarily for financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because it is a normal to ask for a deck on a waterfront property; the size of the deck fits in with the neighboring properties and is appropriate for this large lot; D) that the relief to be granted is the least relief necessary because of how the deck will be used and the amount of space that would be needed to walk around a table on a deck and in order to pull out chairs for sitting. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because a deck facing the water in a waterfront property is a normal request.

Application #3841, Lynn Palmieri, 15 Broadview Rd, East Providence, RI, applicant and owner, for permission to construct a single family home, attached garage, shed, patio and pool. Assessor's Plat 23, Lot 149, NB District, 0 Anoka Ave. (south side of Anoka at the corner of Prince's Hill Ave. and Anoka Ave.), Barrington, RI, requiring dimensional relief for construction within 100' setback from wetlands/water bodies and a special use permit for proposed construction within 100' of Wetlands Overlay District.

Present: Lynn Palmieri, applicant and owner
Peter Skwirz, Esq., 450 Veterans Memorial Parkway, East Providence, RI

In the audience: Charlotte Sornborger, Barrington Land Conservation Trust
Kate Weymouth, 79 Alfred Drown Rd., Barrington, RI
Doug Materne, Conservation Commission

Mr. Meyer is recused from this application.

Ms. Palmieri proposes to build a 3-bedroom home for her family on this empty lot owned by her family since 2006; relief is required from the 100' setback from wetlands/water body. The house would have a gross living area of approx. 2,500 square feet, a total footprint - including shed, above-ground pool and patio - of 1,728 square feet, and 17.4% of lot coverage vs. 30% permitted in the neighborhood business zone. To minimize the impact on the wetlands, the house would be in the northwest corner of the lot – the wetland is on the southeastern side. Further to reduce the impact on the wetland, there will be a rain garden and swale. There is a room above the garage labeled as a bonus room that will be used for storage since there will be no basement.

The Board noted that in the neighborhood business zone, a structure must be between 3' and 15' from the property line – the plans show a 19' setback from Anoka; the applicant agreed to move the house four feet closer to Anoka, increasing the distance from the wetland. However, this move could also affect the spacing of the shed and the above-ground pool. The pool also requires relief from the 100' setback requirement, but it cannot be determined from the drawings exactly how far the proposed pool would be from the wetlands. In addition, the applicant indicated a willingness to substitute a round rather than rectangular pool, adding to the confusion as to the amount of relief required. The Board noted that due to the size of the drawings, several of the numbers important to determining distances were not readable. Lastly, one portion of the drawings showed a protrusion for a chimney on the eastern side of the south façade of the house, which might be the closest element of the structure to the wetland. The applicant clarified that the proposed gas fireplace would not require an external chimney and that element would not be part of the proposal.

Ms. Sornborger said that the Conservation Trust owns the abutting wetlands. They would like as much mitigation as possible. They would be relieved if the pool were removed from the application; if it were not removed, they would request information about the handling of water being emptied from the pool. They would like more information about the rain gardens and any chemicals that might be applied to the land. They also asked that debris / leaves not be placed along the border of the wetlands.

The Board indicated that with the number of changes being made to the plans as submitted, it was still possible for the Board to consider the application with those changes incorporated in any approval, but

it might be confusing and new, clear plans might be useful. If new plans were to be submitted, in addition to having the several dimensions clarified, it would be very useful to have engineering drawings for the rain garden and swale.

Following this discussion, the applicant requested that the application be continued to the May 19 meeting.

MOTION: Mr. Freel made a motion to continue this application to the May 19, 2016 meeting with the condition that the applicant submit revised plans with larger print that reflects all of the changes verbally discussed at this meeting. These plans must be submitted at least one week prior to the May 19, 2016 meeting along with an engineered plan of the rain garden.

Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

The Conservation Commission will not need to approve the new plans.

ADJOURN:

There being no other business, Ms. Henderson moved to adjourn at 9:00 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor, Amy Goins, Assistant Solicitor